

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CAMERON SHAW,  
Plaintiff,

v.

SPARKY'S RESTAURANT COMPANY,  
Defendant.

Case No. 19-cv-03878-KAW

**ORDER DENYING DEFENDANT'S  
APPLICATION FOR STAY AND  
EARLY EVALUATION CONFERENCE**

Re: Dkt. No. 7

On July 5, 2019, Plaintiff Cameron Shaw filed the instant case against Defendant Sparky's Restaurant Company, asserting violations of the Americans with Disabilities Act. (Dkt. No. 1.) On July 26, 2019, Defendant filed an "Application Pursuant to Civil Code Section 55.54 for Stay and Early Evaluation Conference." (Dkt. No. 7.) It appears the application was filed by Defendant, not an attorney.<sup>1</sup> On July 31, 2019, Plaintiff filed his opposition, on the ground that California Civil Code § 55.54 is "preempted to the extent that it imposes any additional procedural hurdles to a plaintiff bringing a claim under the ADA." (Dkt. No. 10 at 1 (quoting *O'Campo v. Chico Mall, LP*, 758 F. Supp. 2d 976, 984 (E.D. Cal. 2010).) Additionally, Plaintiff points out that General Order 56 already stays discovery and requires the parties to engage in early resolution. (*Id.* at 2.)

The Court DENIES Defendant's motion. First, Defendant's motion is improper as it was filed by Defendant, rather than counsel. Because Defendant is a company, it cannot appear in federal court except by counsel. *See Rowland v. Cal. Men's Colony*, 506 U.S. 194, 201-02 (1993). Second, "[t]he ADA preempts section 55.54 insofar as it imposes additional procedural hurdles to

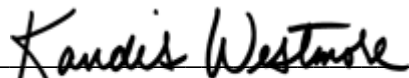
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<sup>1</sup> As of August 19, 2019, Defendant is represented by counsel. (*See* Dkt. No. 12.)

litigate accessibility claims.” *Johnson v. Magganas*, Case No. 17-cv-3075-SBA, 2018 U.S. Dist. LEXIS 42956, at \*3 (N.D. Cal. Mar. 15, 2018); *see also Johnson v. Chae*, Case No. 17-cv-1162-SVK, 2017 U.S. Dist. LEXIS 76834, at \*2 (N.D. Cal. May 19, 2017) (same); *Johnson v. GDRR Props., LLC*, Case No. 16-cv-5839-LHK, 2016 U.S. Dist. LEXIS 176156, at \*2 (N.D. Cal. Dec. 20, 2016) (“several courts in the Ninth Circuit have held that § 55.54(b)’s stay and early neutral evaluation provisions cannot be applied to ADA claims because those procedures are preempted by the ADA”).

IT IS SO ORDERED.

Dated: August 19, 2019

  
KANDIS A. WESTMORE  
United States Magistrate Judge